

INFORMATION FOR MEMBERS OF THE INDIGENT FELONY ASSIGNMENT PANELS

1. Judicial Aide

The Chief Judge of the Circuit Court has been given statutory responsibility for the appointment of counsel in felony cases within the County. In Macomb County, this responsibility has been carried out through the Judicial Aide Office. The Macomb County system operates under a plan outlined in Local Administrative Order 1990-2.

2. Judicial Aide Staff:

Guilford Mellon, Chief Judicial Aide	469-5156
Judicial Aides (Collection of reimbursement from defendants)	
Richard Steenland	469-6204
R. Stan Taylor	469-5264
Wendy Nicolai (Appointment of attorneys)	469-5517
Mary J. Domanski (bonds)	469-5789
Mary Hunt (Appeals)	469-7181
Katie Brower (attorney fee statements)	469-5242

3. Assignment Process

The assignment process is begun when a defendant fills out a petition for appointment of counsel. This is normally at district court arraignment, but may be at any time. The district court faxes the completed application to Judicial Aide. Wendy Nicolai reviews the petition and contacts the attorney next on the rotation list for the level needed.

If an attorney turns down an appointment, the attorney is moved to the bottom of the rotation list. If an attorney cannot take an appointment due to a schedule conflict, the attorney is skipped, but remains in position on the list.

4. Levels of Assignments

- i. " A " Capital cases, i.e. those with a possible sentence of life in prison.
- ii. " B " Cases with a possible sentence of more than 5 years in prison.

- iii. " C " Cases with a possible sentence of 5 years or less in prison.

You can only take assignments within your level or a lower level. If for some reason a mistake is made and you are asked to handle a case which is a higher level, contact Wendy Nicolai for correction of the error.

5. Maintenance of Eligibility

You must attend one criminal law Continuing Legal Education seminar annually and submit documentation of attendance to the Macomb County Bar Association (contact Macomb County Bar Association for information on qualifying seminars).

You must also maintain your official State Bar address within the County of Macomb in order to be eligible for the indigent panel list. The Indigent Panel Selection Committee does not accept post office boxes, mail drops, home addresses or other alternatives as qualifying.

6. Substitution of Retained Counsel:

If the defendant retains his or her own counsel after you were appointed, make sure that a substitution is ordered by the judge assigned to the case. You are responsible for the case until an order of substitution is entered by the Court. It is the responsibility of assigned counsel to ensure that an order is entered. New retained counsel have historically been known to fail to follow through, resulting in duplicate notices and representation. If it becomes known to Judicial Aide that a substitution has been neglected, the assigned counsel will not be given further assignments until the oversight is remedied.

A copy of the substitution is to be provided to the Judicial Aide office so that Judicial Aide can make the necessary clerical changes.

Promptly forward your billing to Judicial Aide after the substitution. Judicial Aide will then bill the defendant for defense costs to date.

7. Payment for Services Rendered

Billings are to be submitted to the Judicial Aide office as soon as possible after the conclusion of the case. This is normally immediately after sentencing. The fee will only be paid on motion and order by the judge assigned to the case, if not submitted more than six months after sentencing.

Use the Request for Payment of Court Appointed Attorney Fees form (copy attached) for your billing. If you use another format, payment may be delayed and information may be missing. An excellent way to utilize this form is to fill out the basic information in the beginning of the case and keep it in your file. Fill in each service rendered during the case right as you perform it. At the conclusion of the case, the form will be completed and you can immediately turn it in. The form tracks the Indigent Fee Schedule (copy attached).

Interim Statements can only be submitted and paid in the following circumstances:

- a. When the defendant absconds and the case is rendered inactive for an extended period of time.
- b. When an appeal delays the proceeding

Fees above and beyond the normal schedule are paid only for “extraordinary” services. This contemplates efforts clearly above and beyond the ordinary and are reasonably necessary in defense of the individual. If an attorney seeks compensation for extraordinary services, the attorney must submit an explanation of the request. If Judicial Aide is unable to approve of the extraordinary services based on the explanation, the attorney must seek the extra compensation by motion before the judge assigned to the case. The Court Administrator has appeared in opposition of motions for extraordinary fees which he deems are not reasonable in light of the Indigent Fee Schedule.

County taxpayers pay nearly \$3 million each year for indigent criminal representation. The representation is not "free." Defendants have an obligation to reimburse the County if they have the ability to do so. The Judicial Aides seek reimbursement for the fees paid by the County. Defendants with the ability to pay who do not do so will be show caused to appear before the Chief Judge. If they do not agree to a payment plan, a judgment will be requested. In addition, funds on deposit from a bond posted by the defendant will be applied towards the obligation. Judicial Aide maintains a supply of forms for return of bond monies and customarily must approve the return of funds before a judge will order the return. Direct initial inquiries to Judicial Aide. Occasionally, hearings are necessary to determine whether monies should be returned to third parties who post bonds in the name of the defendant.

8. Discovery

Both the defendant and the prosecutor are entitled to discovery under the court rules. The Prosecutor normally cooperates in the provision of copies of documents in his files without charge. Defense counsel should call ahead to request copies and have a copy of the order appointing counsel to obtain them free of charge.

9. Experts

If defense counsel feels experts (psychologists, investigators, etc.) are a necessary element of a defense, counsel must seek appointment of the expert from the judge appointed to the case by motion. The order of appointment must state a specific monetary maximum amount that the expert will be paid. Generally, fees for experts are limited to \$750.00. In extraordinary circumstances, a higher amount may be allowed by the judge. Counsel must be prepared to document the reasons for the higher amount. The expert must forward his or her bill along with the order of appointment to Judicial Aide in order to receive payment.

10. Transcripts

If defense counsel wishes transcripts during trial level proceedings, counsel should contact Judicial Aide and make a request. Judicial Aide will grant requests which show good cause. If Judicial Aide is unable to grant

a request, counsel must request transcript by motion before the judge assigned to the case.

11. Interpreters/ Accommodation of Handicaps

If a litigant is deaf or deafened, a sign-language interpreter will be obtained by Judicial Aide at County expense on request. If the deaf or deafened person cannot read sign language, an accommodation such as real time reporting can be explored. Counsel must notify Judicial Aide of the dates and times that interpreters are necessary and of any adjournment(s) of the proceedings.

If a litigant, etc., has a disability within the definition of the American's with Disabilities Act, a reasonable accommodation can be requested of Judicial Aide. Although formality is not required in most instances, a written application for accommodation is available at the Judicial Aide Office.

If an indigent defendant needs language interpretation in order to ensure a fair trial, an interpreter will be provided as part of defense costs. Judicial Aide must have notice of scheduled dates and times and any adjournments in order to schedule an interpreter. Interpreters for witnesses will be provided in rare instances. Generally, this is a cost of the Prosecutor if the witness is a prosecution witness.

12. Outline of Major Case Events

Appearance at preliminary examination. Normally this is the first appearance. The date and time is given counsel by Wendy Nicolai when the appointment is discussed over the telephone. This is followed up by a faxed order of appointment.

In a pilot program beginning May 17, 1999, Circuit Court will be holding arraignment/conferences on the fourth Monday after bind-over before the judge assigned to the case. The defendant, counsel, officers in charge and victims are to appear for a conference even if a written waiver of arraignment is received by circuit court. There will be no video arraignments. The conference is intended to be a meaningful conference. The judge will set a next action date in each case. Counsel will be paid a \$50 waiver fee if arraignment is waived, a \$100 conference fee and an additional \$250 guilty plea fee if a guilty plea is taken at that time.

13. Presentence Reports

Presentence reports are made available to defense counsel at least two days prior to sentencing at the office of the judge assigned to the case. Contact the judge's secretary for further information.

14. Visiting Judges

The Court often utilizes visiting judges to assist with its docket. In that instance, specific cases may be referred to visiting judges for trial. Cases not tried are generally returned to the judge assigned to the case. The visiting judge who takes a guilty plea sentences the defendant unless the judge is unavailable or the parties agree to a sentence before another judge.

